

Memo to Finance Committee  
June 20, 1990

[re: increase in the property transfer tax rate from \$2.50 to \$5.50 for each \$500 value]

Item 4 - File 127-90-4

[San Francisco, Calif.]  
Real property tax & California & San Francisco.  
Inheritance and transfer tax & Calif. & " " "

**Note:** This item was continued by the Finance Committee at its meeting of June 6, 1990.

The proposed ordinance would amend Part III, Article 12C, Section 1102 of the San Francisco Municipal Code to increase the real property transfer tax rate from \$2.50 to \$5.50 for each \$500 of consideration of value and delete the exemption for assumed indebtedness from the real property transfer tax.

Part III, Article 12C, Section 1102 of the City's Municipal Code currently states that for each deed for which any land or other property sold within the City and County of San Francisco is transferred or otherwise conveyed to any other person or persons, when the value of the interest or property conveyed exceeds \$100, a tax at the rate of \$2.50 for each \$500 or fraction thereof shall be imposed. This tax is referred to as the real property transfer tax. The existing real property transfer tax provisions also exclude the value of any lien or encumbrance remaining at the time of the sale from the \$2.50 for each \$500 of value.

The proposed ordinance would increase the current real property transfer tax rate from \$2.50 to \$5.50 per \$500 of property value. The proposed increase of \$3.00 per \$500 of property value represents a 120 percent increase in the City's real property transfer tax rate. In addition, the proposed ordinance would delete the City's existing provision which excludes the value of any lien or encumbrance remaining at the time of the sale from the real property transfer tax if the buyer purchases the property and assumes the seller's existing financing.

**Analysis**

1. The exclusion of the value of any lien or encumbrance remaining at the time of the sale, which is the case under the existing ordinance, means that if a buyer purchases property and assumes the seller's existing financing, then the amount assumed is not subject to the City's real property transfer tax. For example, as shown in the chart below, if a buyer purchases a \$300,000 home, and has an equity of \$60,000, and assumes the seller's existing financing of \$240,000, then the amount of real property transfer tax owed to the City based on the existing rate of \$2.50 per \$500 of value would be \$300 (\$2.50 per \$500 x \$60,000). Under the proposed new ordinance, using the same \$300,000 home example, whereby the existing lien (mortgage) or encumbrance is assumed, the house would be taxed under the proposed new rate of \$5.50 per \$500 of value and the amount of real property transfer tax owed to the City would be \$3,300 (\$5.50 per \$500 x \$300,000). Using this example, the real property transfer tax would increase from \$300 to \$3,300, an increase of \$3,000, or a 1,000 percent increase.

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	<u>Existing</u>	<u>Proposed</u>
Purchase Price	\$300,000	\$300,000
20 % Equity	60,000	60,000
Assumption of Financing	240,000	240,000
Property Value for Transfer Tax	\$60,000	\$300,000
Transfer Tax Rate Per \$500	2.50	5.50
Property Transfer Tax Owed	300	3,300

2. If a buyer does not assume the seller's existing financing and secures new financing to purchase property, then under both the existing and the proposed legislation, the full sales price value of the property is used to determine the City's real property transfer tax. For example, as shown below, if a buyer purchases a \$300,000 home, places a 20 percent downpayment, or \$60,000, and seeks a new loan from a bank for the \$240,000 balance, then the amount of real property transfer tax owed to the City based on the existing rate of \$2.50 per \$500 of value would be \$1,500 ( $\$2.50 \text{ per } \$500 \times \$300,000$ ). Under the proposed ordinance, the real property transfer tax owed to the City would be \$3,300 ( $\$5.50 \text{ per } \$500 \times \$300,000$ ), an increase of \$1,800, or a 120 percent increase.

	<u>Existing</u>	<u>Proposed</u>
Purchase Price	\$300,000	\$300,000
20 % Downpayment	60,000	60,000
New Financing	240,000	240,000
Property Value for Transfer Tax	\$300,000	\$300,000
Transfer Tax Rate Per \$500	2.50	5.50
Property Transfer Tax Owed	1,500	3,300

3. According to Mr. Bruce Jamison of the Recorder's Office, a study in 1988, based on a random selection of 1,000 taxable conveyances processed through the Recorder's Office found that in approximately 30 percent of the property values conveyed through the Recorder's Office, the buyer assumed the seller's existing financing. However, the amount of financing assumed will vary depending on current interest rates, the interest rates of the assumable mortgages, the ability of the seller to offer such financing, the desire of the buyer to assume the mortgage, etc.

4. In the 1990-91 Annual Appropriation Ordinance (Interim Budget), based on the provisions in the existing ordinance, the current real property transfer tax is estimated to generate approximately \$21 million annually of revenue for the City. As shown below, given that the transfer tax rate is proposed to increase from \$2.50 to \$5.50 per \$500 of value, a 120 percent increase, it is projected that the existing \$21 million of annual transfer tax revenues would also increase approximately 120 percent or an increase of \$25.2 million annually, for a total of approximately \$46.2 million in 1990-91. In addition, based on a more conservative

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estimate (than the 30 percent found in the 1988 study of the Recorder's Office), that approximately 20 percent of the property values are assumed indebtedness, the elimination of this exemption would increase the transfer tax by 25 percent (increase from 80 percent collections to 100 percent collections). Therefore, the elimination of the exemption would increase tax revenues by an additional \$11.55 million annually (25 percent x \$46.2 million). Together, these two provisions in the proposed ordinance are projected to increase City transfer tax revenues by \$36.75 million (\$25.2 million + \$11.55 million) from \$21 million to approximately \$57.75 million per year, an increase of 175 percent, as follows:

Current Revenues	\$21.00 million
Percent Increase in Rate	x 120 %
Projected Increased Revenues from Rate Increase	<u>\$25.20 million</u>
Subtotal Revenues from Rate Increase	\$46.20 million
Projected Percent Increase from Elimination of Exemption	x 25 %
Projected Add. Revenues from Elimination of Exemption	<u>\$11.55 million</u>
Total Annual Revenues Projected	\$57.75 million

### Comments

1. Mr. Jamison reports that the general practice in San Francisco is for the seller to pay the real property transfer tax. However, there is no legal requirement that the seller must pay the tax and the payment of the transfer tax can be negotiated between the seller and buyer during the purchase of the property. According to Mr. Jamison, both the buyer and the seller are legally liable for payment of the property transfer tax.

2. Based on discussions with Mr. Jamison, if the proposed ordinance is approved, consideration should be given to delaying the effective date of the legislation for 60 to 90 days to provide adequate notice to all real estate companies and title companies of the changes in the City's transfer tax rate. Providing such time will enable properties that have not entered escrow to include sufficient funds to pay the new taxes.

3. Mr. Jamison also reports that if the proposed legislation is approved, the Recorder's Office may need additional monitoring staff to insure compliance with the new ordinance. According to Mr. Jamison, the Recorder's Office currently monitors at least five percent of all transactions. In most cases, there is voluntary compliance. However, Mr. Jamison states that given the significant increase in the proposed rates, the voluntary compliance rate may decrease. Mr. Jamison estimates one additional 4308 Senior Collections Officer position would be needed at an annual 1990-91 salary and fringe benefit cost of approximately \$49,000.

4. A survey conducted by the Recorder's Office of property transfer taxes charged in neighboring San Francisco Bay Area communities found that all counties in California charge a rate of \$1.10 per \$1,000 of property value (\$0.55 per \$500) and have a provision for the exemption of liens and encumbrances, or assumed indebtedness. Within each county, chartered cities may charge an additional property transfer tax. All of the Bay Area cities that charge additional

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transfer taxes base the tax on the full value of the property. The following chart identifies the five Bay Area counties' transfer tax rates and lists the cities located within each of these five counties that charge transfer taxes.

<u>County/City</u>	<u>County Transfer Tax per \$500 of Value</u>	<u>City Transfer Tax per \$500 of Value</u>	<u>Total Transfer Tax per \$500 of Value</u>
<u>Alameda County</u>			
City of Alameda	\$0.55	\$2.20	\$2.75
City of Albany	0.55	2.20	2.75
City of Berkeley	0.55	5.00	5.55
City of Oakland	0.55	4.75	5.30
City of Piedmont	0.55	2.20	2.75
<u>Contra Costa County</u>			
	0.55	0	0.55
No cities in Contra Costa County charge an additional transfer tax.			
<u>Marin County</u>			
San Rafael	0.55	.20	0.75
<u>San Mateo County</u>			
City of San Mateo	0.55	2.50	3.05
<u>Santa Clara County</u>			
City of San Jose	0.55	1.65	2.20
City of Mountain View	0.55	1.65	2.20

Based on the above data, if the proposed property transfer tax is increased in San Francisco to \$5.50 per \$500 of property value, other than the City of Berkeley, San Francisco will have the highest property transfer taxes in the Bay Area. However, as reported by Mr. Jamison, the City of Berkeley has a provision in their property transfer tax that excludes all personal residences if occupied for more than five years from paying any property transfer tax, when the property is sold. As reflected by the chart above, most cities do not charge an additional property transfer tax.

5. Discussions with the City Attorney's Office and the Controller's Office indicate that increases in the City of Oakland's property transfer tax have resulted in a lawsuit concerning the legality of such increases given the provisions established in the State's Proposition 13. Mr. Buck Delventhal of the City Attorney's Office reports that the Superior Court has recently upheld the City of Oakland's increases in their transfer tax, although this decision may be appealed. Mr. Sam Yockey of the Controller's Office reports that he is awaiting further information from the City Attorney's Office regarding whether there would be a need to sequester any increased revenues resulting from an increase in property transfer taxes, if the proposed ordinance is approved, pending the outcome of adjudication.

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THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY

REPORT OF THE  
COMMISSION ON THE ORGANIZATION  
OF THE DEPARTMENT OF CHEMISTRY

PRESENTED TO THE  
FACULTY OF THE DIVISION OF THE PHYSICAL SCIENCES  
AT THE MEETING OF THE DIVISION, MAY 1964

BY THE  
COMMISSION ON THE ORGANIZATION  
OF THE DEPARTMENT OF CHEMISTRY

CHICAGO, ILLINOIS  
1964

THE COMMISSION ON THE ORGANIZATION OF THE DEPARTMENT OF CHEMISTRY was organized in 1961 by the Faculty of the Division of the Physical Sciences. Its purpose was to study the organization of the Department of Chemistry and to make recommendations to the Faculty of the Division of the Physical Sciences.

The Commission was composed of the following members: [List of names and titles, which are illegible in this scan]. The Commission held several meetings and conducted extensive studies of the Department of Chemistry. Its report is presented to the Faculty of the Division of the Physical Sciences at the meeting of the Division, May 1964.

**Recommendation**

Approval of the proposed ordinance to increase the City's real property transfer tax from \$2.50 to \$5.50 and to delete the exemption for assumed indebtedness from the real property transfer tax is a policy matter for the Board of Supervisors. As previously noted, this would result in an estimated tax increase of 175 percent, generating additional tax revenues of \$36.75 million annually.

If the proposed ordinance is approved, consideration should be given to delaying the effective date to provide adequate notice to affected parties.

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